

POLICY DIRECTIVE 80-16 (REVISION)

**TO: ALL JUSTICES OF THE PEACE
ALL JUSTICE OF THE PEACE COURT PERSONNEL**

**FROM: HON. PATRICIA W. GRIFFIN
CHIEF MAGISTRATE**

**RE: HANDLING OF COMPLAINTS AGAINST JUSTICE OF THE
PEACE COURT PERSONNEL INCLUDING SEXUAL
HARASSMENT AND HARASSMENT BASED ON RACE,
COLOR, GENDER, NATIONAL ORIGIN, AGE, SEXUAL
ORIENTATION, RELIGION OR DISABILITY**

DATE: JANUARY 31, 2003

THIS REVISION REPLACES THE ORIGINAL POLICY DIRECTIVE 80-16 (October 3, 1980) AND ITS SUPPLEMENT (August 11, 1995) "COMPLAINTS FROM OUTSIDE THE COURT SYSTEM", and POLICY DIRECTIVE 97-162 (February 10, 1997) "SEXUAL HARASSMENT POLICY AND COMPLAINT PROCEDURE; POLICY AND COMPLAINT PROCEDURE FOR HARASSMENT BASED ON RACE, COLOR, GENDER, NATIONAL ORIGIN, AGE, SEXUAL ORIENTATION, RELIGION OR DISABILITY". THOSE POLICIES ARE HEREBY RESCINDED.

I. DEFINITION OF A COMPLAINT: A complaint is an informal verbal or formal written disagreement or dispute about a policy or practice as it pertains to an individual employee, job performance or condition of work. Complaints pertaining to allegations of sexual harassment or harassment based on race, color,

gender, national origin, age, sexual orientation, religion or disability should be handled in accordance with the policies under IV and V of this Policy Directive.

II. INTERNAL COMPLAINTS - GENERALLY

A. POLICY: Complaints of Justice of the Peace Court employees against fellow employees should generally be discussed directly between the affected employees. If not resolved informally through these discussions, complaints should be brought directly to the complainant's immediate supervisor and shall be made in a constructive and professional manner. Complaints should not be communicated in the presence of other employees or outside persons.

B. PROCEDURE FOR COMPLAINT RESOLUTION:

1. This procedure applies to merit and non-merit Justice of the Peace Court employees for all complaints that do **not** involve the application of the Merit System Rules or the Merit System statute. Complaints arising from Merit System Rules/Statute and involving Merit System employees shall be processed in accordance with procedures established under the Merit System Rules. See State of Delaware Personnel Office Merit Rules Chapter 20.

2. Whenever appropriate and/or possible, conflicts should be resolved informally between the person making the complaint and the person against whom the complaint is made. (This is not a mandatory step in the process.)

3. Complainants (persons making the complaint) should discuss the complaint with their immediate supervisor to try to strategize a realistic and acceptable resolution.

4. If a complaint is not resolved informally between the persons involved, then the complaint shall be made in writing to the complainant's immediate supervisor, or, if the complaint is against the supervisor, to the person immediately above the supervisor in the Chain of Command for Reporting Complaints (see attached).

5. The complainant's immediate supervisor will handle the complaint (if the complaint is against an employee who they also supervise) or, if the complaint is against an employee with a different supervisor, they will communicate the complaint to the person immediately above the person against whom the complaint is lodged in the Chain of Command for Reporting Complaints. Any other information about the complaint or suggestions for the handling/resolution of the complaint should be provided by the complainant's supervisor as well.

6. The supervisors will use professional discretion in determining

the form (complainant's written complaint, other summarized writing or verbally) in which the complaint will be communicated.

7. The supervisor will work with the person with whom the complaint is lodged (who received the complaint) to try to resolve the complaint.

8. A response concerning any action taken by the supervisor or person who received the complaint, or the reason for the taking of no action, should be provided to the complainant's supervisor within a reasonable period of time.

9. The complainant's supervisor will, in turn, ensure that the complainant receives a copy of, or information about, the complaint response in a timely manner.

10. The attached Chain of Command for Reporting Complaints should be followed in the handling of all complaints.

11. If a complaint is not resolved at the initial level (as described above), the next step is to file the complaint with the person at the next level in the Chain of Command above the person against whom the complaint is filed.

III. EXTERNAL COMPLAINTS - GENERALLY

A. POLICY: Complaints from persons who are outside of the Justice of the Peace Court should be handled in a manner consistent with the Court's public service mission and shall be handled fairly and as expeditiously as possible.

B. PROCEDURE:

1. Complaints from persons outside the Justice of the Peace Court system should generally be referred to the supervisor of the person against whom the complaint is filed and the supervisor should discuss the complaint with the person against whom the complaint is filed.

2. A response should be provided by the supervisor (or other person as appropriate) to the complainant within a reasonable period of time and a copy of any written response should generally be provided to the person against whom the complaint was filed.

3. If the complainant is not satisfied with the supervisor's response, the complainant should be referred to the person at the next level in the attached Chain of Command for Reporting Complaints above the person against whom the complaint is filed.

4. External complaints should be in writing, where appropriate.

IV. SEXUAL HARASSMENT POLICY AND COMPLAINT PROCEDURES.

A. POLICY: It is the policy of the Justice of the Peace Courts that all employees should enjoy a working environment free from all forms of discrimination, including sexual harassment.

Sexual harassment is a form of sex discrimination and is prohibited by Title VII of the Civil Rights Act of 1964 and grounds for disciplining an employee pursuant to Merit Rule 15.0225. It is the policy of the Justice of the Peace Court that sexual harassment is unacceptable conduct in the workplace and will not be tolerated.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature, when:

1. Submission to that conduct or communication is made a term or condition of employment, either explicitly *or* implicitly; or
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment; or
3. That conduct or communication has the purpose or effect of substantially interfering with an individual's employment or work performance, or creates an intimidating, hostile or offensive working environment.

Sexual harassment may take many forms. The most obvious and easily identified is where submission to unwanted sexual advances is made a condition of obtaining tangible benefits at work (e.g., promotion, salary increases. etc.) or avoiding the loss of job-related benefits. Other forms include questionable physical contact or a sexual nature, suggestions of sexual favors, repeated use of vulgar language of a sexual nature, and displaying sexually explicit pictures or posters.

B. PROCEDURE:

1. Any employee who believes that they are being sexually

harassed, or are aware of an incident of sexual harassment, should advise the offending individual that the conduct in question is offensive, and request that it be discontinued immediately.

2. If the employee does not desire to mention the offending behavior to the offending individual, or if the conduct in question is not discontinued, the employee who believes they have been subjected to sexual harassment should bring their concerns to the attention of their supervisor, the Court Administrator, or the Chief Magistrate.

3. Upon notification to a supervisor, the Court Administrator or the Chief Magistrate, an investigation of the complaint will be conducted immediately. Confidentiality of the complainant and/or witnesses to the alleged sexual harassment will be maintained to the extent possible. If appropriate, the complainant and/or the alleged harasser may be placed on administrative leave pending completion of the investigation.

4. An employee found to have committed sexual harassment will be subject to disciplinary action. The type of disciplinary action taken will depend upon the seriousness of the offense committed and may include the giving of a warning, reprimand, suspension, or termination. Other remedial action may be taken, as appropriate. No one will in any way use threats, coercion, or intimidation to deter an employee from reporting sexual harassment.

5. If appropriate, follow-up inquiries may be made to ensure that sexual harassment has not resumed and that the complainant and witnesses have not suffered retaliation for their actions.

V. POLICY AGAINST HARASSMENT BASED ON RACE, COLOR, GENDER, NATIONAL ORIGIN, AGE, SEXUAL ORIENTATION, RELIGION OR DISABILITY AND COMPLAINT PROCEDURES.

A. POLICY: It is the policy of the Justice of the Peace Courts that all employees should enjoy a working environment free of harassment, including harassment based on an employee's race, color, gender, national origin, age, sexual orientation, religion or disability. Such harassment is unacceptable conduct in the workplace and will not be tolerated.

Harassment based on race, color, religion, gender, national origin, age, sexual orientation, religion or disability includes, but is not limited to:

(1) epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to race, color, religion, gender, national origin, age, sexual orientation, religion or disability, occurring at the workplace;

(2) jokes or pranks which are hostile or demeaning with regard to race, color, religion, gender, national origin, age, sexual orientation, religion or disability, occurring at the workplace;

(3) written or graphic material that denigrates or shows hostility toward an individual because of his or her race, color, religion, gender, sexual orientation religion or disability, and is placed on walls, bulletin boards, or elsewhere on the employer's premises or is circulated in the workplace.

B. PROCEDURES:

1. Any employee who believes that they are harassed based on race, color, gender, national origin, age, sexual orientation, religion or disability, or are aware of an incident of harassment, should advise the offending individual that the conduct in question is offensive, and request that it be discontinued immediately.

2. If the employee does not desire to mention the offending behavior to the offending individual, or if the conduct in question is not discontinued, the employee who believes they have been subjected to harassment should bring their concerns to the attention of their supervisor, the Court Administrator, or the Chief Magistrate.

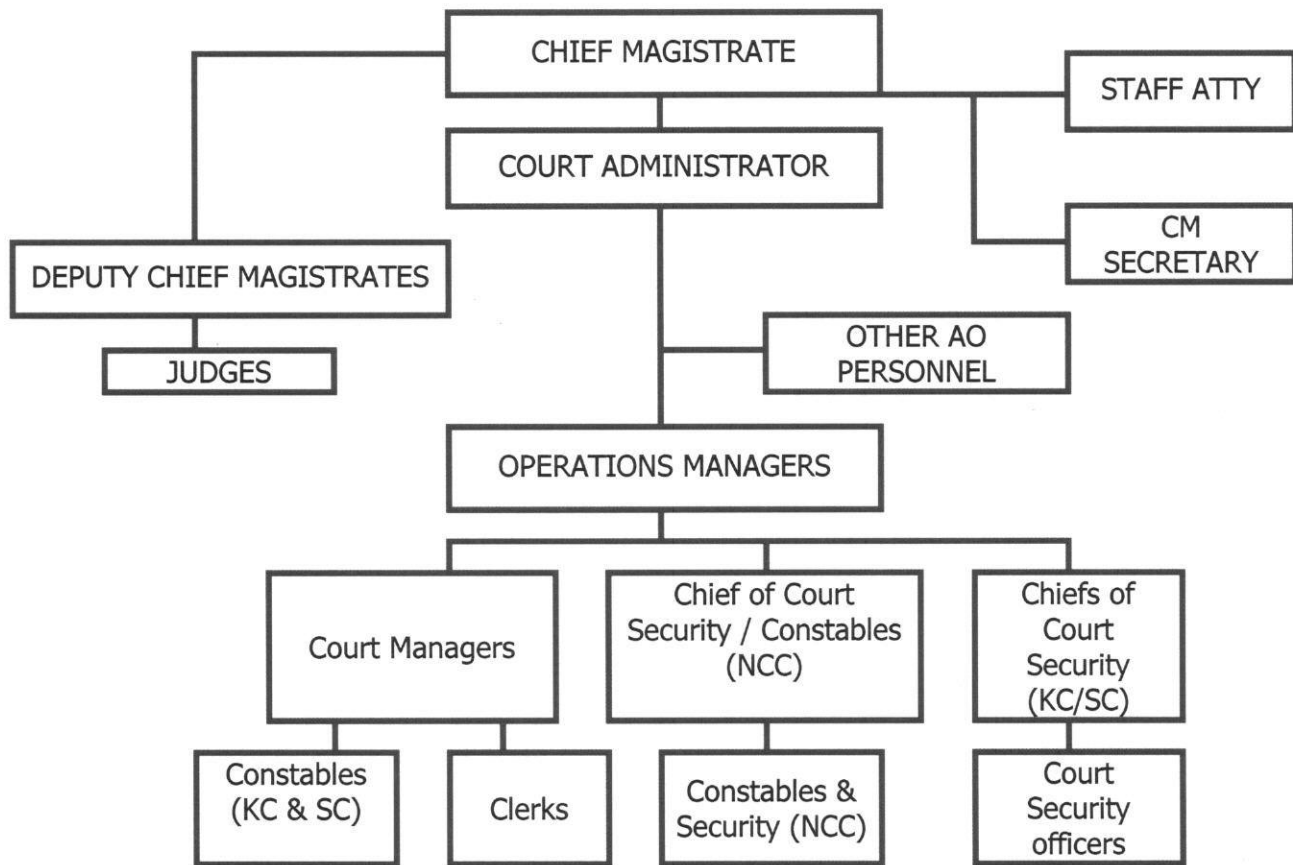
3. Upon notification to a supervisor, the Court Administrator or the Chief Magistrate. an investigation of the complaint will be conducted immediately. Confidentiality of the complainant and/or witnesses to the alleged harassment will be maintained to the extent possible. If appropriate, the complainant and/or the alleged harasser may be placed on administrative leave pending completion of the investigation.

4. An employee found to have committed harassment will be subject to disciplinary action. The type of disciplinary action taken will depend upon the seriousness of the offense committed and may include the giving of a warning, reprimand, suspension, or termination. Other remedial action may be taken, as appropriate. No one will in any way use threats, coercion, or intimidation to deter an employee from reporting harassment.

5. If appropriate, follow-up inquiries may be made to ensure that harassment has not resumed and that the complainant and witnesses have not suffered retaliation for their actions.

cc: Honorable E. Norman Veasey
Honorable Joseph T. Walsh
Honorable Henry duPont Ridgely
Honorable Alex J. Smalls
Honorable Vincent J. Poppiti
Thomas W. Nagle
Anna A. Lewis
H. John Betts
Larry Sipple
Law Libraries: New Castle County, Kent County, Sussex County,
Widener University School of Law

Justice of the Peace Court INTERNAL COMPLAINT CHAIN OF COMMAND



Example #1: A court security officer files a complaint against a clerk: The complaint would be discussed with Chief of Court Security in their county, if not resolved informally; the Chief of Court Security will forward the complaint to the Clerk's Court Manager, who will attempt to resolve the complaint and provide a response to the Chief, who will, in turn, share information about the response with the Court Security Officer who filed the complaint. If the CSO is not satisfied, they can ask their supervisor to forward the complaint, and all related information, to their Operations Manager, who will further review the complaint and provide a response.

Example #2: A clerk files a complaint against a judge: The complaint would be discussed with the Clerk's Court Manager, who will forward the complaint to the Judge's Deputy Chief Magistrate, and the DCM will attempt to resolve the complaint and provide a response to the Court Manager, who, in turn, provides the response to the Clerk. If the Clerk is not satisfied with the response, they can ask their supervisor to forward the complaint, and all related information, to the Chief Magistrate.

Fecha _____

DATE: _____